

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE NOLAN,

Defendant.

Case No. 2:08-cr-00135-LDG (RJJ)

ORDER

The defendant, George Nolan, moves for bail pending appeal (#119). The United States opposes the motion (#121). Having considered the arguments and the record, the Court will deny the motion.

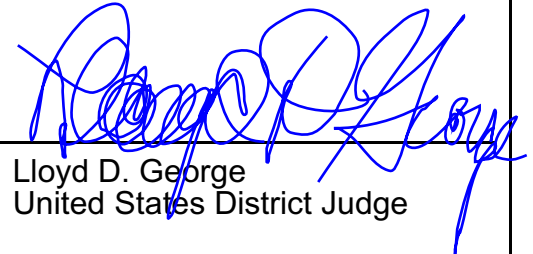
Defendants who are convicted and sentenced to imprisonment are presumptively not entitled to bail pending appeal. *United States v. Garcia*, 340 F.3d 1013, 1015 (9th Cir. 2003); *United States v. Koon*, 6 F.3d 561, 567 n.1 (9th Cir. 1993); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985); 18 U.S.C. § 3143(b)(1) (absent exception, person convicted and sentenced to imprisonment “shall . . . be detained”). To rebut Section 3143(b)(1)’s “decidedly stringent” standard, *United States v. Colletta*, 602 F. Supp. 1322, 1326 (E.D. Pa. 1985) (discussing *United States v. Miller*, 753 F.2d 19, 23 (3rd Cir. 1985), and S. Rep. No. 225, 98th Cong., 1st Sess. at 26 (1983)), a convicted defendant must

1 establish: by clear and convincing evidence that he "is not likely to flee or pose a danger to
2 the safety of any other person or the community if released[;]" and that "the appeal is not
3 for the purpose of delay and raises a substantial question of law or fact likely to result in . . .
4 reversal." 18 U.S.C. § 3143(b)(1).

5 In light of Nolan's conduct while on pre-trial release, the Court cannot conclude that
6 he has shown by clear and convincing evidence that he is not likely to flee or pose a
7 danger to the safety of any other person or the community if released. Further, in light of
8 the defendant's waiver of his right to appeal, the Court cannot conclude that he has met his
9 burden of showing that his appeal is not for the purpose of delay, or that he has raised on
10 appeal a question or issue that is fairly debatable. Accordingly,

11 THE COURT **ORDERS** that Defendant's Motion for Bail Pending Appeal (#119) is
12 DENIED.

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14 DATED this 81 day of December, 2011.

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17 Lloyd D. George
18 United States District Judge
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